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Amy Pelletier

/Amy Pelletier/

8/29/2010

Type or print name

Signature

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	DiMauro	Confirmation No.:	9012
Serial No.	:	10/774,105		
Filed	:	2/6/2004		
Title	:	Implant Having A Photocatalytic Unit		
Art Unit	:	3761		
Examiner	:	Jacqueline F. Stephens		

Mail Stop Patent Ext.
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. 1.705(d) AFTER PATENT ISSUANCE

Dear Sir:

Responsive to the Determination of Patent Term Adjustment indicated on the front page of US Patent US 7,744,555 (issued 6/29/2010), and in light of the recent ruling in *Wyeth v. Kappos*, No. 2009-1120, slip op. (US Court of Appeal Federal Circuit) the Patentees submit this Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705. As stated in 37 C.F.R. 1.705(d):

any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued...

This request is being submitted within two months of the issuance of the US Patent 7,744,555, and complies with the relevant deadline specified in 37 C.F.R. 1.705(d). Thus, Patentees contend this request is timely.

1. Payment of fee under §1.18(e) or §1.18(f)

Patentees hereby authorizes the Patent Office to charge the fee set forth in §1.18(e) or §1.18(f) or and any other fees that may be due to Deposit Account 10-0750.

2. Statement of Facts

Patentee disagrees with the Patent Term Adjustment set forth on the first page of the granted patent and as listed in PAIR. Patentee's were given an additional 398 days of patent term that patentee is not entitled to. It is patentee's belief that the correct Patent Term Adjustment for this patent is of 476 days.

Applicant's should have received a reduction of 363 days for the time period of 10/26/2007 (three months from the mailing date of the final office action) to October 22, 2008 (RCE and Response filed). Since applicant failed to timely respond to the final office action, the application became abandoned on October 26, 2007. A Petition to Revive was filed on April 17, 2008, however this petition was non-compliant and was rejected by the USPTO. A second Petition to Revive was filed on October 22, 2008 and was accepted by the USPTO. Applicant also should have received a reduction for the period of October 26, 2007 (date of abandonment) to November 26, 2008 (date patent office revived application). This should have resulted in a reduction of 398 days. Since the time period for not responding to the final office action within three months of the mailing date of the action and the time period of the abandonment date to the revive date overlap, the correct reduction for this time period should have been 398 days.

Other Circumstances

Applicants confirm that, (1) this application is not subject to a Terminal Disclaimer; and (2) except for the Applicants' delay periods set forth above and noted in the PAIR calculation, there were no other circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

Conclusion

For the reasons set forth above, Applicants request that the patent term adjustment for the present patent application be corrected to 476 days.

Respectfully submitted,

By: /Thomas M. DiMauro/
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